IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 657 OF 2005

R.B. Chaubey & Ors. ...Petitioners

V/s.

S. Kundar ...Respondent.

Mr. A.A. Kumbhakoni instructed by Mr. Kuldeep S. Patil

for the Petitioners

Ms. Ranjana Todankar for the Respondent.

CORAM: DALVEER BHANDARI, C.J., &
S. A. BOBDE, J.
DATED: FEBRUARY 4, 2005.

P.C.:

This petition is directed against the order of the Maharashtra State Co-operative Appellate Court.

The brief facts, which are necessary to dispose of this petition, are recapitulated as under:-

The respondent is a member of Kaysons Co-operative Housing Society Ltd. Because of the physical problem, and on doctor's advice, the respondent wants a lift to be erected in the Society premises. The other members are not interested in installing the lift. The respondent, therefore, assured the Society that he would like to erect and maintain the lift at his own cost. On that assurance, the permission for the same has been granted.

The petitioners approached the Co-operative Court No. (III), Mumbai, for an injunction order against the respondent and the Society, which was declined by that Court. The petitioners, aggrieved by that order, approached the Maharashtra State Co-operative Appellate Court, Mumbai.

In the impugned order, it is mentioned that the construction of the lift has already commenced. The necessary permission from the Bombay Municipal Corporation has been obtained.

The learned counsel appearing for the respondent submits that the lift is going to be erected and maintained by the respondent. Even then he would not have any objection if other residents also use the lift.

In view of the above statement, we do not find any merit in this Writ Petition. It is accordingly dismissed.

CHIEF JUSTICE

S. A. BOBDE, J.